



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,357	07/03/2001	Dennis P. Joyce	7000-075	1061

27820 7590 04/14/2004

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

EXAMINER

LY, NGHI H

ART UNIT PAPER NUMBER

2686

DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,357

Applicant(s)

JOYCE ET AL.

Examiner

Nghi H. Ly

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>18</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder et al (US 5,649,300) in view of Chern et al (US 6,381,465).

Regarding claims 1, 3, 12, 14 and 23, Snyder teaches a method for delivering content (see abstract) to a mobile terminal comprising: determining a location of the mobile terminal (see column 3 lines 26-40), defining a locality whose boundaries are determined without reference to a geographical location of control station and without reference to a

Art Unit: 2686

communication range associated with the control station (see column 3, lines 50-62 and fig.1, the mobile units 20 can move freely inside predetermined area 10 and when the mobile units 20 are near any points of interest 16, they receive business advertisements from any points of interest 16, in Snyder, the term "near" means the area around the point of interest 16 and it reads on Applicant's "locality". In addition, the "points of interest 16" can be located anywhere inside predetermined area 10 or whose boundaries are determined without reference to a geographical location of control station 18 and without reference to a communication range associated with the control station 18), determining if the locality encompasses the location of the mobile terminal (see abstract or see column 3, lines 50-62, "when the mobile unit 20 is near a point of interest 16"), accessing content from the content provider based on the locality and delivering the content to the mobile terminal (also see abstract or see column 3, lines 50-62, "the messages that system 12 delivers may be business advertisements that are presented when mobile units 20 are near the business").

Snyder does not specifically disclose a servicing base station and accessing content from the content provider based on the locality by sending a request to a content provider within the locality.

Chern teaches a servicing base station (see fig.1, base station 112) and accessing content from the content provider based on the locality by sending a request to a content provider within the locality (see column 6, lines 13-23, column 7, lines 50-65, and column 13, lines 50-64).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Chern into the system of Snyder so that services can be provided to the user based on what he/she needs.

Regarding claims 2 and 13, the combination of Snyder and Snyder further teaches the locality encompassing the mobile terminal is determined by: sending a request to a locality service to associate the location of the mobile terminal with a locality encompassing the location of the mobile terminal (see Chern, column 6, lines 13-23, column 7, lines 50-65, and column 13, lines 50-64), receiving a response from the locality service identifying the locality encompassing the location of the mobile terminal (see Snyder, abstract), and the locality service includes a plurality of locations defining geographic areas (also see Snider, abstract or see column 3 lines 50-62).

Regarding claims 4 and 15, the combination of Snyder and Chern further teaches the step of accessing content is further based on a type of content desired by a user of the mobile terminal (see Chern, column 6, lines 13-23, column 7, lines 50-65, and column 13, lines 50-64).

Regarding claims 5 and 16, the combination of Snyder and Chern further teaches the step of accessing content is further based on characteristics of a user of the mobile terminal (also see Chern, column 6, lines 13-23, column 7, lines 50-65, and column 13, lines 50-64).

Regarding claims 6 and 17, Snyder further teaches the locality defines a recognized geographic area (see abstract or see column 3, lines 50-62, "when the mobile unit 20 is near a point of interest 16").

Regarding claims 7 and 18, Snyder further teaches the locality defines a geographic area about a point of presence for a content provider (also see abstract or see column 3, lines 50-62, "when the mobile unit 20 is near a point of interest 16").

Regarding claims 8 and 19, Snyder further teaches the content accessed based on locality relates to a point of presence within the locality (also see abstract or see column 3 lines 50-62, "when the mobile unit 20 is near a point of interest 16").

Regarding claims 9, 11, 20 and 22, Snyder teaches a method for delivering content to a mobile terminal (see abstract) comprising: determining a location of the mobile station (see column 3, lines 26-40), defining a locality whose boundaries are determined without reference to a geographical location of a serving base station and without reference to a communication range associated with the servicing base station (see column 3, lines 50-62 and fig.1, the "points of interest 16" can be located anywhere inside predetermined area 10 or whose boundaries are determined without reference to a geographical location of control station 18 and without reference to a communication range associated with the control station 18) and delivering the content to the mobile terminal (see column 3, lines 26-40), and defining a zone of acceptance around the mobile terminal (Snyder teaches determining the position of the mobile terminal is based on GPS, see column 7, lines 1-15, the teaching of Snyder inherently teaches defining a zone of acceptance around the mobile terminal (since mobile terminal's GPS position is centered on the current position of the mobile terminal) and wherever the mobile terminal goes, the zone around the mobile terminal will follow. In addition, applicant's specification (page 9, lines 21-23) discloses "*the circle about (not around* as

Art Unit: 2686

claimed) *the mobile terminal 16 represents a zone of acceptance defined by the mobile terminal 16 user in a user profile. The zone of acceptance is centered on the current position of the mobile terminal and includes an advertiser point of presence A3*"), and determining if the zone of acceptance overlaps any position of the locality (see column 3, lines 50-62 and fig.1, the mobile units 20 can move freely inside predetermined area 10 and when the mobile units 20 are near any points of interest 16, they receive business advertisements from any points of interest 16, in Snyder, the term "near" means the area around the point of interest 16 and it reads on Applicant's "locality" and the zone around the mobile terminals will follow and overlap the area around the points of interest 16 when mobile terminals are near any points of interest 16).

Snyder does not specifically disclose associating content providers encompasses the location of the mobile terminal, accessing a profile associated with the user of the mobile terminal, accessing the content from the content provider based on the locality wherein is based on criteria within the profile such that the criteria further identified a type of content to access.

Chern teaches associating content providers encompasses the location of the mobile terminal (see column 6, lines 13-23), accessing a profile associated with the user of the mobile terminal (see column 7, lines 50-65), accessing the content from the content provider based on the locality wherein is based on criteria within the profile such that the criteria further identified a type of content to access (see column 6, lines 13-23 and column 13, lines 50-64, in addition, applicant's specification page 3, lines 6-8 and

Art Unit: 2686

page 5, lines 19-20 disclose a profile is created by the user to identify the content or type of content to receive).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Chern into the system of Snyder so that services can be provided to the user based on what he/she needs.

Regarding claims 10 and 21, Snyder further teaches accessing a profile associated with a point of presence with the locality (also see abstract or see column 3 lines 50-62, "when the mobile unit 20 is near a point of interest 16") and the step of accessing the content is further based on criteria within the profile such that the criteria further identifies the type of content to access (see column 5, lines 16-19).

Response to Arguments

4. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lohtia (US 6,560,456) teaches system and method for providing subscriber-initiated information over the short message service (SMS) or a microbrowser.

Art Unit: 2686

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703) 605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly

NH Ly
04/12/04

Marsha D Banks-Harold
MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600